

Message Text

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43

ACTION COME-00

INFO OCT-01 ARA-10 ISO-00 EB-07 L-03 SS-15 USIA-15 /051 W

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R 231630Z AUG 76

FM AMEMBASSY BRASILIA

TO SECSTATE WASHDC 7461

INFO AMCONSUL RIO DE JANEIRO

AMCONSUL SAO PAULO

UNCLAS BRASILIA 7361

E.O. 11652: N/A

TAGS: BEXP AFSP BR

SUBJECT: DRAFT DIPLOMATIC NOTE ON SAO PAULO TRADE CENTER

REF: (A) BRASILIA 6007, (B) STATE 188503

1. AFTER CAREFUL CONSIDERATION IN CONJUNCTION WITH CONGENS
RIO AND SAO PAULO, EMBASSY CONCURS WITH DEPARTMENT'S RECOMMENDED
CHANGES, REFTEL B, WITH EXCEPTIONS GIVEN BELOW.

2. PARAGRAPH B (II), GOB MAY WELL OBJECT USE OF THE WORD
"EXACT" BEFORE "SIMILARS". DECREE NO. 61.574 OF OCTOBER
20, 1967, DEFINES A NATIONAL SIMILAR AS ONE WHICH:
A) IS EQUIVALENT QUALITY AND SPECIFICATIONS ADEQUATE
TO THE USE FOR WHICH IT IS INTENDED;
B) IS OF A PRICE NOT HIGHER THAN THE IMPORT COST OF
THE FOREIGN PRODUCT, FIGURED IN THE NATIONAL CURRENCY OF
THE FOREIGN PRODUCT, AND INCLUDING IMPORT AND OTHER PERTINENT
TAXES;
C) CAN BE DELIVERED IN A NORMAL TIME FRAME, OR THAT
WHICH IS CURRENT FOR THE SAME TYPE OF MERCHANDISE.
WE APPRECIATE THE DEPARTMENT'S DESIRE FOR A CLEARER DEFINI-
TION OF SIMILARS, AND THEREFORE SUGGEST THE FOLLOWING PHRASING:
"SEEK TO AVOID EXHIBITION OF GOODS WITH SIMILARS BEING
MANUFACTURED IN BRAZIL, AS DEFINED BY DECREE NO. 61.574
OF OCTOBER 20, 1967."

3. PARAGRAPH B (III), SUGGEST ADDITION OF SENTENCE AT
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END OF PARAGRAPH: "THE UNITED STATES GOVERNMENT WILL PRO-

VIDE A WRITTEN GUARANTEE TO THIS EFFECT." (PLEASE ADVISE US WHO WILL SIGN THE GUARANTEE ON BEHALF OF THE USG.) THIS WILL CLEARLY DEFINE THE FORM THAT THE ASSUMPTION OF RESPONSIBILITY WILL TAKE, LEAVING NO ROOM FOR DOUBT THAT IT IS IN LIEU OF THE BANK GUARANTEE NORMALLY REQUIRED BY BRAZILIAN LAW.

4. PARAGRAPH B (VI), PHRASE "SUBSTITUTION WILL BE REQUESTED BY THE USG FOR ANY FAIRS WHOSE THEMES ARE FOUND BY THE BRAZILIAN GOVERNMENT TO BE DIRECTLY CONFLICTING WITH ANY PREVIOUSLY SCHEDULED BRAZILIAN FAIRS OR WITH ANY BRAZILIAN LAW." WE BELIEVE THAT LANGUAGE ADDED IS NOT IN BEST INTEREST OF TRADE CENTER. WE REALIZE DEPARTMENT IS TRYING TO LIMIT NUMBER OF REASONS FOR GOB DISAPPROVAL, BUT RESULT IS ACTUALLY MORE RESTRICTIVE. FIRST, THIS COULD RULE OUT PIGGY-BACK EXHIBITIONS WITH SIMILAR THEMES AS MAJOR BRAZILIAN EXHIBITIONS. THE PIGGY-BACK SHOW HAS BEEN A USEFUL TECHNIQUE IN OTHER TRADE CENTERS. SECONDLY, PRESENT WORDING COULD BE INTERPRETED TO MEAN THAT THE USG COULD REQUEST SUBSTITUTION FOR A SHOW REFUSED BECAUSE OF CONFLICT OF SCHEDULES OR BECAUSE OF VIOLATION OF BRAZILIAN LAW, BUT CANNOT FOR SHOWS DISAPPROVED FOR OTHER REASONS, OR FOR NO REASON AT ALL. WE BELIEVE EMBASSY'S ORIGINAL WORDING, ALTHOUGH GENERAL, SHOULD BE RETAINED TO INCLUDE USE OF WORD "MAY" INSTEAD OF "WILL". SECOND SENTENCE WOULD THUS READ AS FOLLOWS: "SUBSTITUTIONS MAY BE REQUESTED FOR ANY FAIRS WHICH ARE NOT AUTHORIZED AS WELL AS FOR PROGRAMMED FAIRS WHICH ARE SUBSEQUENTLY CANCELLED BY THE TRADE CENTER."
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